

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

TURNER CONSTRUCTION COMPANY,)	
)	
Plaintiff,)	Civil Action No. 1:16-cv-58 (IMK)
)	
v.)	
)	
WYATT INCORPORATED,)	
)	
Defendant.)	

**PLAINTIFF TURNER CONSTRUCTION COMPANY’S
MOTION FOR PARTIAL SUMMARY JUDGMENT**

Pursuant to Rule 56 of the Federal Rules of Civil Procedure, plaintiff/counter-defendant, Turner Construction Company (“Turner”), by counsel, respectfully moves the Court to enter partial summary judgment against defendant/counterclaimant Wyatt Incorporated (“Wyatt”). As is set forth more fully in the attached Exhibits (1 – 7) and the accompanying memorandum of law, which is incorporated herein by reference, there is no genuine dispute as to any material fact and Turner is entitled to judgment on all claims set forth in Wyatt’s counterclaim that arose on or before October 31, 2014 as a matter of law.

I. Introduction

This is a contract dispute between a general contractor (Turner) and its subcontractor (Wyatt) arising from a government construction project in Clarksburg, West Virginia (the “Project”). The United States is the owner of the Project. Turner entered into a subcontract with Wyatt to perform drywall, ceiling, access flooring, fireproofing, and rough carpentry work for the Project. Turner commenced this action by filing its complaint in April 2016. Wyatt filed its answer and counterclaim in August 2016. In its counterclaim, Wyatt alleges that it is entitled to further payments from Turner under the parties’ subcontract.

II. Summary of grounds for granting this Motion

Turner moves for summary judgment with respect to all claims alleged by Wyatt in its counterclaim that arose on or before October 31, 2014. Wyatt executed sworn releases and waivers pursuant to which it expressly released all claims for damages arising from labor and materials that it provided to the Project for the period up through and including October 31, 2014. Accordingly, summary judgment should be entered as to all of Wyatt's damages claims that arose on or before October 31, 2014.

III. Conclusion

For the foregoing reasons, and those reasons further set forth in Turner's accompanying Memorandum in Support of this Motion, Turner respectfully moves the Court to enter judgment against Wyatt on all claims that arose on or before October 31, 2014.

Dated: September 23, 2016

Respectfully submitted,

/s/ M. David Griffith, Jr.

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